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July 11, 1997

VIA UPS/ OVERNIGHT DELIVERY

Office of Secretary Federal Communications Commission Room #222 1919 M Street NW Washington, DC 20554 DOCKET FILE COPY ORIGINAL

RE: IN THE MATTER OF CCN, INC., ET AL CC DOCKET NO. 97-144

Dear Office of the Secretary:

Enclosed herewith is the Petition To Intervene And Motion To Enlarge Issues of Atlas Communications, LTD. and Billing Concepts, Inc. and fourteen copies in the above referenced matter. Kindly file the original and return the time-stamped copy in the self addressed stamped envelope provided.

Thank you for your time and attention to this matter.

Sincerely,

BOCHETTO & LENTZ, P.C.

Eduardo Texidor

Manufacture Total

Daniel Fletcher cc:

CCN, Inc

Church Discount Group, Inc. Discount Calling Card, Inc. Donation Long Distance, Inc. Long Distance Services, Inc. Monthly Discounts, Inc.

Monthly Phone Services, Inc.

Phone Calls, Inc.

Successors and/or Assigns of any of the foregoing

DOCKET FILE COPY ORIGINAL

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, DC 20554

EATIONS COMMISSION

1, DC 20554

In the Matter of

CCN, Inc.,

Church Discount Group, Inc.,

Discount Calling Card, Inc.,

Donation Long Distance, Inc.,

Long Distance Services, Inc.,

Monthly Discounts, Inc.,

Monthly Phone Services, Inc., and

Phone Calls, Inc. : CC Docket No. 97-144

ORDER

Upon consideration of Petition To Intervene And Motion To Enlarge Issues Of Atlas Communications, Ltd. And Billing Concepts, Inc., IT IS ORDERED, pursuant to Section 4(j) of the Communications Act of 1934, as amended, that petitioners'-movants' said petition and motion hereby are GRANTED.

and Billing Concepts, Inc. hereby are GRANTED LEAVE TO INTERVENE in those certain pre-Hearing proceedings and that certain Hearing ordered pursuant to the Commission's Order To Show Cause And Notice Of Opportunity For Hearing, issued at In the Matter of CCN, Inc., et al. (CC Docket No. 97-144).

IT IS FURTHER ORDERED that Atlas Communications, Ltd. and Billing Concepts, Inc. shall, within _____ days following the date hereof, FILE WITH THE COMMISSION statements specifying the relief sought, and facts and authority supporting same.

IT IS FURTHER ORDERED that the issues to be determined

at the aforesaid Hearing hereby are ENLARGED to include Whether And/Or How Atlas Communications, Ltd. And/Or Billing Concepts, Inc. Shall Be Permitted To Continue Supplying Telecommunications And Related Services To Customers Identified To Atlas Communications, Ltd. And Billing Concepts, Inc. By Phone Calls, Inc., Under Phone Calls, Inc.'s Federal Communications Commission's Certification And/Or Tariffs.

FEDERAL COMMUNICATIONS COMMISSION

	Ву:	 	
Dated:			

BOCHETTO & LENTZ, P.C.

By: George Bochetto, Esquire Stephen E. Skovron, Esquire

1524 Locust Street

Philadelphia, PA 19102

(215) 735-3900

Attorneys for

Atlas Communications, Ltd

and Billing Concepts, Inc

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, DC 20554

In the Matter of

CCN, Inc.,

Church Discount Group, Inc.,
Discount Calling Card, Inc.,

Donation Long Distance, Inc., Long Distance Services, Inc.,

Monthly Discounts, Inc.,

Monthly Phone Services, Inc., and :

Phone Calls, Inc. : CC Docket No. 97-144

Petition to Intervene and

Motion to Enlarge Issues of
Atlas Communications, Ltd. and
Billing Concepts, Inc.

PETITION TO INTERVENE AND MOTION TO ENLARGE ISSUES OF ATLAS COMMUNICATIONS, LTD. AND BILLING CONCEPTS, INC.

NOW COME Petitioners-Movants Atlas Communications, Ltd. and Billing Concepts, Inc., by and through their undersigned counsel, and hereby petition the Federal Communications

Commission to grant petitioners-movants leave to intervene in the above-captioned enforcement proceeding, and move the Federal Communications Commission to enlarge issues in the above-captioned enforcement proceeding, and state as follows in support thereof:

PARTIES

1. Petitioner-movant Atlas Communications, Ltd.

["Atlas"] is a corporation organized and existing pursuant to the laws of the Commonwealth of Pennsylvania, whose principal place of business is located at 482 Norristown Road, Suite 200, Blue Bell, Pennsylvania.

- 2. Petitioner-movant Billing Concepts, Inc. is a corporation organized and existing pursuant to the laws of the State of Delaware, doing business as U.S. Billing, whose principal place of business is located at 7411 John Smith Drive, San Antonio, Texas ["USB"].
- 3. Respondent Daniel Fletcher is an adult individual and was--as represented and warranted to Atlas by Mr. Fletcher--at all times relevant hereto, the sole owner and President of Phone Calls, Inc. As of the date hereof, Atlas does not know Mr. Fletcher's whereabouts, despite reasonable investigation.
- 4. Respondent Phone Calls, Inc. ["PCI"] was--as represented and warranted to Atlas by Mr. Fletcher--at all times relevant hereto, a corporation organized and existing pursuant to the laws of the State of Virginia, whose principal place was 3220 N Street, N.W., Suite 100, Washington, D.C.

GENERAL ALLEGATIONS

- 5. PCI, among other entities, and Mr. Fletcher, are the subject of the Federal Communication Commission's ["Commission"] Order To Show Cause And Notice Of Opportunity For Hearing, issued at *In the Matter of CCN, Inc.*, et al. (CC Docket No. 97-144).
 - 6. Atlas duly is certificated as an interexchange

carrier by the Commission at ITC-95-584.

7. Atlas is a switchless long-distance telephone company, supplying long-distance telephone services to customers via U.S. Sprint's network, access to which Atlas has purchased.

Atlas/PCI Contract

- 8. On or about June 18, 1996, Atlas and PCI entered a contract ["Atlas/PCI Contract"].
- 9. Pursuant to the Atlas/PCI Contract, in sum, PCI would identify to Atlas long-distance telephone customers from whom PCI already had obtained authorization to switch to another network, and Atlas would cause those customers to be placed on its network (derived, as it is, from Sprint's network).
- 10. Pursuant to the Atlas/PCI Contract, PCI represented and warranted to Atlas that PCI was an interexchange carrier, duly certificated thereas by the Commmission and the public utility/service commissions ["PUCs"] of all States within which PCI conducted business.
- 11. Pursuant to the Atlas/PCI Contract, PCI represented and warranted to Atlas that it duly had registered any and all applicable interstate tariffs with the Commission.
- 12. Pursuant to the Atlas/PCI Contract and customary industry practice, Atlas, by and through a third-party billing clearinghouse, would bill PCI-identified customers for their interstate telephone calls pursuant to PCI's Commission certification and duly registered tariffs.

Atlas/USB Contract

- 13. In or about September 1996, Atlas and USBI entered a contract ["Atlas/USB Contract"].
- 14. Pursuant to the Atlas/USB Contract, USB would perform billing clearinghouse services for Atlas as to customers PCI had identified to Atlas pursuant to the Atlas/PCI Contract.
- 15. Pursuant to the Atlas/USB Contract and customary industry practice, USB would bill customers PCI identified to Atlas for their interstate telephone calls and pursuant to PCI's Commission certification and duly registered tariffs.

Atlas/PCI Lawsuit

- 16. In or about early July 1996, PCI identified approximately 544,000 long-distance telephone customers to Atlas.
- 17. Atlas began causing those customers to be placed on its network.
- 18. Within approximately two-to-three weeks, Atlas was able to cause approximately 200,000 of those customers to be placed on its network.
- 19. Within approximately another two weeks, Atlas learned that, of those customers placed on its network, an inordinately high percentage--vis-a-vis industry standards--had lodged complaints with regulators and government law enforcement agencies, including the Commission, various PUCs, and various state attorneys general, as well as with Sprint and numerous local telephone companies.
 - 20. At bottom, all those customers complained about

the same thing: That they had not authorized PCI to switch their long-distance service.

- 21. Atlas verified the accuracy of those customers' complaints, but when it approached PCI about same, PCI denied culpability and, very soon thereafter, the Atlas/PCI business relationship deteriorated to an adversarial relationship.
- 22. On August 19, 1996, PCI filed a civil Complaint against Atlas at PCI v. Atlas (E.D. Pa. No. 96-5734), in reply to which, on August 26, 1996, Atlas filed its Answer and Counterclaims.
- 23. Some weeks into the litigation, Mr. Fletcher failed to appear at various hearings despite being so ordered by the Court. PCI's counsel then moved to withdraw from the case, and that motion was granted.
- 24. On December 31, 1996, the Clerk of Court, United States District Court for the Eastern District of Pennsylvania, entered default on Atlas' Counterclaims in favor of Atlas and against PCI, upon Atlas' request therefor pursuant to Fed. R. Civ. P. 55(a).
- 25. On June 6, 1997, the Court conducted a damages hearing pursuant to Fed. R. Civ. P. 55(b), during which Atlas presented evidence supporting its damages claim against PCI.
- 26. As of the date hereof, the Court's ruling on the said damages hearing is pending.

Atlas and USB Continue to Service Some PCI-Identified Customers and Attempt to Mitigate Effects of Fletcher/PCI Actions

- 27. As of date hereof, Atlas and USB continue to service some customers identified to Atlas by PCI.
- 28. Atlas and USB continue to supply those services—though each is entitled to forebear therefrom—because each views the provision of interstate telecommunications and related services as quasi-public services in furtherance of what each believes to be consumers' fundamental rights to unfettered, efficient telecommunications.
- 29. Moreover, Atlas voluntarily has undertaken extraordinary steps to mitigate the effects of Mr. Fletcher's and PCI's apparent actions in acquiring some of those customers' Letters of Authorization by means not in compliance with Commission rules and regulations or acceptable industry practice.
- and PCI's said apparent actions, Atlas voluntarily and without solicitation reduced the rates at which it billed those customers to rates employed by major carriers. (Atlas may have billed those customers at rates represented and warranted by PCI to have been duly filed and registered with the Commission, but in Atlas' and USB's opinion those rates were too high and included a high surcharge that was unwarranted.)

ATLAS AND USB INTERESTS HEREIN

31. Pursuant to the Commission's Order To Show Cause
And Notice Of Opportunity For Hearing, issued at In the Matter of

CCN, Inc., et al. (CC Docket No. 97-144), the Commission intends to revoke the operating authority of PCI.

- 32. If the Commission revokes the operating authority of PCI, Atlas and USB will be forced to terminate servicing customers PCI identified to Atlas.
- 33. If Atlas and USB are so foreclosed, each will suffer irreparable harm including but not limited to:
- a. reputational harm among those customers identified to Atlas by PCI to the extent same identify Atlas and/or USB as voluntarily refusing to supply uninterrupted, efficient telecommunications and related services;
- b. reputational harm among those customers to the extent same identify Atlas and/or USB as complicit with Mr. Fletcher and/or PCI;
- c. reputational harm among state telecommunications regulators for the same reasons;
 - d. loss of customers;
 - e. loss of goodwill;

and each will suffer financial harm including but not limited to the translation of the aforesaid into lost profits.

RELIEF SOUGHT

WHEREFORE, Petitioners-Movants Atlas Communications,
Ltd. and Billing Concepts, Inc. hereby petition the Federal
Communications Commission to grant petitioners-movants leave to
intervene in the above-captioned enforcement proceeding pursuant
to Section 4(j) of the Communications Act of 1934, as amended,

and move the Federal Communications Commission to enlarge issues in the above-captioned enforcement proceeding, pursuant to Section 4(j) of the Communications Act of 1934, as amended, to include Whether And/Or How Atlas Communications, Ltd. And/Or Billing Concepts, Inc. Shall Be Permitted To Continue Supplying Telecommunications And Related Services To Customers Identified To Atlas Communications, Ltd. And Billing Concepts, Inc. By Phone Calls, Inc., Under Phone Calls, Inc.'s Federal Communications Commission's Certification And/Or Tariffs.

Respectfully submitted,

BOCHETTO & LENTZ, P.C.

By:

George Bochetto, Esquire Stephen E. Skoyron, Esquire

1524 Locust Street

Philadelphia, PA 19102

(215) 735-3900

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, DC 20554

In the Matter of	:				
	:				
CCN, Inc.,	:				
Church Discount Group, Inc.,	:				
Discount Calling Card, Inc.,	:				
Donation Long Distance, Inc.,	:				
Long Distance Services, Inc.,	:				
Monthly Discounts, Inc.,	:				
Monthly Phone Services, Inc., and	:				
Phone Calls, Inc.	:	CC	Docket	No.	97-144

AFFIDAVIT OF JOHN FUDESCO

COMMONWEALTH OF PENNSYLVANIA)		
)	ss:	
COUNTY OF MONTGOMERY)		

- I, JOHN FUDESCO, an adult individual being duly sworn and according to law, hereby depose and say:
- 1. I am an attorney at law and am Vice President of Atlas Communications, Ltd., petitioner-movant in the above-captioned matter.
- 2. I am familiar with Daniel Fletcher and Phone Calls, Inc. and with the facts and circumstances underlying this petition-motion.
- 3. I have read the factual allegations expressed in the within Petition To Intervene And Motion To Enlarge Issues Of Atlas Communications, Ltd. And Billing Concepts, Inc.
- 4. Under penalty of perjury I hereby state that I know each of those factual allegations to be true and correct based on my first-hand knowledge thereof and/or information and

belief therein.

5. Affiant says nothing further.

AFFIANT:

TOHN FUDESCO

Executive Vice President Atlas Communications, Ltd.

SWORN AND SUBSCRIBED TO BEFORE ME

THIS _____, DAY OF _____, 1997.

Notary Public

Kerry Ignatius, Notary Public East Goshen Twp., Chester County My Commission Expires Feb. 9, 1998

· (seal)

Member Pennsylvania Association of Notaries



BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, DC 20554

In the Matter of	:			
	:			
CCN, Inc.,	:			
Church Discount Group, Inc.,	:			
Discount Calling Card, Inc.,	:			
Donation Long Distance, Inc.,	:			
Long Distance Services, Inc.,	:			
Monthly Discounts, Inc.,	:			
Monthly Phone Services, Inc., and	:			
Phone Calls, Inc.	:	CC Docket	No.	97-144

AFFIDAVIT OF MARSHALL MILLARD

STATE OF TEXAS)
) ss:
COUNTY OF BEXAR)

- I, MARSHALL MILLARD, an adult individual being duly sworn and according to law, hereby depose and say:
- 1. I am an attorney at law and am Corporate Counsel to Billing Concepts, Inc., d/b/a U.S. Billing ["USB"], petitioner-movant in the above-captioned matter.
- 2. I am familiar with Daniel Fletcher and Phone Calls, Inc. and with the facts and circumstances, as to USB, underlying this petition-motion.
- 3. I have read the factual allegations, as to USB, expressed in the within Petition To Intervene And Motion To Enlarge Issues Of Atlas Communications, Ltd. And Billing Concepts, Inc.
- 4. Under penalty of perjury I hereby state that I know each of those factual allegations to be true and correct

based on my first-hand knowledge thereof and/or information and belief therein.

5. Affiant says nothing further.

AFFIANT:

MARSHALL MILLARD Corporate Counsel

Billing Concepts, Inc.

SWORN AND SUBSCRIBED TO BEFORE ME

THIS 11 th DAY OF JULY

CERTIFICATE OF SERVICE

I, STEPHEN E. SKOVRON, ESQUIRE, hereby certify that I caused a true and correct copy of the within Petition To

Intervene And Motion To Enlarge Issues Of Atlas Communications,

Ltd. And Billing Concepts, Inc. to be served upon those listed below, at the below-listed addresses, by first-class U.S. mail, postage prepaid, deposited on July 11, 1997:

Addressee (typed as shown) For All Addresses Listed Below:

DANIEL FLETCHER, and/or
CCN, INC., and/or
CHURCH DISCOUNT GROUP, INC., and/or
DISCOUNT CALLING CARD, INC., and/or
DONATION LONG DISTANCE, INC., and/or
LONG DISTANCE SERVICES, INC., and/or
MONTHLY DISCOUNTS, INC., and/or
MONTHLY PHONE SERVICES, INC., and/or
PHONE CALLS, INC., and
SUCCESSORS and/or ASSIGNS OF ANY OF THE FOREGOING

Posted To:

201 West Broad Street Suite 181 Falls Church, VA 22206

1357 Ashford Avenue San Juan, Puerto Rico 00930

1718 M Street, N.W. No. 143 Washington, DC 20036 1728 Wisconsin Avenue, N.W. No. 222 Washington, DC 20007

1728 Wisconsin Avenue, N.W. No. 300 Washington, DC 20007

1730 North Lynn Street No. A-09 Arlington, VA 22209

2117 L Street, N.W. No. 293 Washington, DC 20037

2200 Wilson Boulevard No. 102-H Arlington, VA 22201

2200 Wilson Boulevard No. 303 Arlington, VA 22201

3220 N Street, N.W. No. 100 Washington, DC 20007

5511 Staples Mill Road Richmond, VA 23228

11400 Commercial Drive Reston, VA 20190

P.O. Box 9169 Arlington, VA 22199

Stephen E. Skovron, Esquire